Appendix

[Title of Court and Cause.]

State of California,
City and County of San Francisco.—ss.

William F. Herron, being first duly sworn deposes, says, and respectfully shows to the Supreme Court of the United States: That under the rules of the Supreme Court of the United States relative to petitions for writs of certiorari to review the final judgment or decree of the highest court of the State in which a decision might be had where there is drawn in question a validity of a statute of the State on the ground of its being repugnant to the constitution or laws of the United States the petitioner is required to set forth the stage of the proceedings and the manner in which the federal questions were raised. That in the cause entitled as above your petitioner raised the federal question, to-wit, that certain provisions of the so-called State Bar Act of the State of California were invalid upon the ground that they were repugnant to the Constitution of the United States, and particularly that the said provisions were violative of the due process of law clause in the Fourteenth Amendment to the Constitution of the United States; that the proceedings which culminated in the judgment order or decree of the Supreme Court of the State of California sought to be reviewed on certiorari were initiated by a so-called local administrative committee of the said State Bar at San Francisco, California; that your petitioner personally appeared be-

fore the said committee and objected to any proceedings being taken against him upon the ground that the said statute was repugnant to the Constitution of the United States, and that the provisions of said statute requiring the payment of dues and penalties by attorneys into the treasury of the State Bar and giving to the Board of Governors of the State Bar the power to fix the amounts of said dues and penalties were a deprivation of property without due process of law in violation of the provisions of the said Fourteenth Amendment to the Constitution of the United States. That at the said hearing the said objections of your petitioner raising the federal question aforesaid were taken down in shorthand by an assistant secretary of the said State Bar of California but were never transcribed or made a part of the record because the said State Bar of California has adopted a rule entitled Rule 24 of Rules of Procedure of the State Bar of California, which said rule is in the words and figures following, to-wit:

> "Rule 24. *Reporting and Transcribing Informal Proceedings; Use of Transcript.* Unless otherwise ordered by the board, the proceedings in a preliminary investigation shall not be reported or transcribed, except when, in a particular case, the secretary shall have given his approval in advance, before the commencement or during the pendency of the preliminary investigation.
>
> "Unless otherwise ordered by the board, a transcript of the proceedings in a preliminary investigation shall not be made available for any purpose other than the conduct of such preliminary inves-

tigation and then only as the committee may direct."

That on the 7th day of July, 1944, your petitioner applied to Mrs. Georgie McLaughlin, the assistant secretary of the said State Bar, who took the said proceedings in shorthand, for the transcription of her shorthand notes of the said proceedings, and in particular of the objections of petitioner raising the said federal question, *and petitioner offered to pay for a copy of such transcription;* but the said assistant secretary informed your petitioner *that she was forbidden by the said State Bar not only to furnish petitioner with a copy of her shorthand notes which showed the raising of the said federal question but that she was likewise forbidden even to read her notes to your petitioner.*

That by reason of the foregoing facts the said objections do not appear of record, and that the failure of the record to show the said raising of the said federal question before the said committee at the inception of the proceedings is due solely to the aforesaid unjust and arbitrary rule adopted by the said State Bar, and your petitioner prays this Honorable Court that since the said record is made unavailable to him by reason of the act of the respondent, that this affidavit be considered in lieu of a record of the proceedings aforesaid.

WILLIAM F. HERRON.

(Verified.)